

**Advanced Optical Technologies, L.L.C.**  
**8301 Greensboro Drive**  
**Suite 110**  
**McLean, Virginia 22102**  
**Phone: (703) 676-8651**

## **STATEMENT OF WORK**

### **Low Profile Linear Fluorescent Luminaire**

**December 6, 2000**

#### **1.0 Introduction**

This document defines the Statement of Work (SOW) for completing the engineering and industrial design of Advanced Optical Technologies' (AOT) Low Profile Linear Fluorescent (LPLF) luminaire for LSI Industries (LSI).

Typically, an AOT SOW is divided into two phases with the objective of the first phase being the modeling of an optical design and the fabrication of an initial engineering prototype that demonstrates the viability of the proposed product. This is followed by a second phase where AOT supports the engineering staff of our customers to complete the engineering and industrial design of the final product.

For this particular product development effort, AOT has already determined the marketability of the proposed low profile linear fluorescent product and has completed the initial optical design and has fabricated an engineering prototype that demonstrates the fixture's optical performance. AOT therefore proposes that we immediately begin Phase II, as defined by this SOW, on a Time and Material basis, to support LSI's mechanical and industrial engineering staff in the development of the final product.

#### **2.0 Product Manufacturing Technical Support**

As experts in the unique technology utilized in the LPLF luminaire, AOT understands that our involvement in the production engineering will help LSI to avoid critical errors in the conversion of the initial engineering prototype to a production luminaire. Under the direction of LSI engineering staff, AOT will support LSI's manufacturing engineers in the industrial design and fabrication of second article engineering prototypes and/or production units. This support can include, but would not be limited to; complete part design and drawings, quote collection, optical analysis and redesign, and selection and testing of materials. This effort will be performed on a Time and Materials basis in accordance with a time schedule mutually agreed to by LSI and AOT. AOT will assist in the testing, qualification, and compliance assessment of luminaire prototypes. AOT

will also assist in any troubleshooting of the prototype design, analyze any proposed design modifications, and assist LSI, as needed, to implement design changes.

Questions regarding this Statement of Work should be addressed to Mr. David P. Ramer, General Manager of AOT at (703) 676-5250. The employees of AOT appreciate the opportunity to propose this new product development project to LSI Industries.

December 12, 2000

**VIA FEDEX**  
(800) 436-7800

Mr. James Sferra  
Director of Manufacturing  
LSI Industries  
10000 Alliance Road  
Cincinnati, OH 45242

**RE: Low Profile Linear Fluorescent Uplight Engineering Design Agreement**

Dear Jim:

This letter provides the terms of an engineering design agreement between Advanced Optical Technologies, L.L.C. ("AOT") and LSI Industries ("LSI") concerning: (i) the optical design for a new lighting fixture to be used as a "Low Profile Linear Fluorescent Uplight" using optical design model data generated using AOT's proprietary optical technologies; (ii) the optical engineering and materials specifications for the new Low Profile Linear Fluorescent Uplight Design; and (iii) a license agreement for the use of the Low Profile Linear Fluorescent Uplight Design in the manufacture of uplight fixtures incorporating AOT's proprietary optical technologies.

1. **The Project.** AOT shall use commercially reasonable efforts to: (i) engineer the Low Profile Linear Fluorescent Uplight Design; and (ii) fabricate an optical prototype of the Low Profile Linear Fluorescent Uplight Design; and (iii) prepare an optical design specification.

2. **Payment.** LSI shall pay AOT \$15,000 upon execution of this letter agreement. In return, AOT will provide LSI with optical model results, mechanical drawings and a working model of the first article prototype. LSI shall pay AOT for future work performed under the SOW on a time and materials basis at the labor rate of \$85.00 per hour, with total monthly labor payments NTE \$12,500 for the duration of the project.

LSI shall also pay any sales, use, excise, property or similar taxes assessed as a result of work performed or payments made under this letter agreement, but not taxes based on AOT's net income. AOT shall invoice LSI for payment due under this letter agreement, and LSI shall pay any properly invoiced amounts within 30 days after receipt of AOT's invoice.

3. **Termination of Statement of Work.** AOT shall perform project design reviews with LSI at the completion of the Optical Design and Optical model Tasks and at the completion of the Optical Prototype and Mechanical Conceptual Design Tasks (as described in the attached Statement of Work). At the completion of each project design review the parties will discuss upcoming Task(s) and negotiate any reasonable changes to the scope and cost of the project. AOT shall not begin work on the Optical Prototype and Mechanical Conceptual Design until LSI has authorized AOT to continue work on the project. LSI shall have the right to terminate remaining scheduled work under this agreement subsequent to each design review. In the event LSI elects to terminate the Statement of Work at any stage of the project, LSI shall pay AOT for tasks completed as of the date of Termination in accordance with the schedule in paragraph 2 above. In the event LSI elects to terminate the Statement of Work at any stage of the project, AOT shall not be obligated to perform work on project tasks terminated by LSI, and LSI shall return all confidential materials, as defined in Article 7 of this Agreement, within 30 days of termination. AOT shall only be required to provide to LSI project deliverables for tasks authorized and paid for by LSI. The provisions of this letter agreement concerning proprietary rights and licenses, confidentiality, limitation of liability, duties upon termination and interpretation of this agreement shall remain in effect after a termination of the Statement of Work by LSI.

4. **Rights with Respect to the Low Profile Linear Fluorescent Uplight Design.** AOT shall have the nonexclusive right to use for any purpose and to disclose (i) generic information relating to AOT's optical technologies not specific to the Low Profile Linear Fluorescent Uplight Design, and (ii) general knowledge, skills and experience gained by AOT, its employees and independent contractors as a result of work hereunder. AOT shall retain all of its proprietary rights with respect to its optical technologies, including but not limited to the optical design model data generated to develop the Low Profile Linear Fluorescent Uplight Design, and the Low Profile Linear Fluorescent Uplight Design itself, and AOT grants LSI no

license with respect to such rights except as provided in the License Agreement between the parties (attached as Appendix B). LSI hereby grants AOT a perpetual, irrevocable, worldwide, royalty-free, nonexclusive, sublicensable license to use and disclose for any purpose any improvements to AOT's proprietary optical technologies made by LSI (AOT Improvements) (in contrast to any product developed by LSI that would incorporate AOT's proprietary optical technologies) and to make, use, import, offer for sale and sell products embodying AOT Improvements.

5. **License Agreement.** AOT agrees, in consideration for the agreements and terms set forth in this Development Agreement, to enter into the License Agreement between the parties (attached as Appendix B), subject to the provisions of Article 3 and Article 8 of this Agreement.
6. **Warranty and Limitations.** AOT warrants that the services it provides under this letter agreement will be provided in a workmanlike manner. AOT HEREBY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. AOT SHALL NOT BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES, AND AOT SHALL NOT BE LIABLE FOR ANY OTHER DAMAGES IN EXCESS OF THE AMOUNTS PAID TO AOT FOR ITS SERVICES UNDER THIS AGREEMENT.

7. **Confidentiality.**

7.1 For the purpose of this Article 7, the term "Confidential Information" means any material or information relating to a party's (the "Disclosing Party's") research, development, trade secrets and business operations and affairs that the Disclosing Party provides in writing marked "Confidential", but not any material or information that the other party (the "Receiving Party") can show (i) is or becomes publicly known through not fault of the Receiving Party; (ii) is developed independently by the Receiving Party; (iii) is known by the Receiving Party when disclosed by the Disclosing Party if the Receiving Party does not then have a duty to maintain its confidentiality; or (iv) is rightfully obtained by the receiving Party from a third party not obligated to preserve its confidentiality.

7.2 A Receiving Party shall not use the Disclosing Party's Confidential Information for any purpose other than in accordance with this Agreement and shall not disclose Confidential Information to any person other than its employees and its independent contractors subject to a nondisclosure obligation comparable in scope to this Article 7, which employees and independent contractors have a need to know such Confidential Information.

7.3 Notwithstanding Section 6.2, a Receiving Party may disclose Confidential Information to the extent required by a court or other governmental authority, provided that (i) the Receiving Party gives the Disclosing Party reasonable notice of the disclosure, (ii) the Receiving Party uses reasonable efforts to resist disclosing the Confidential Information, and (iii) the Receiving Party cooperates with the Disclosing Party on request to obtain a protective order or otherwise limit the disclosure.

7.4 The parties acknowledge that either party's breach of Section 6.2 would cause the other party irreparable injury for which it would not have an adequate remedy at law. In the event of a breach, the nonbreaching party shall be entitled to injunctive relieve in addition to any other remedies it may have at law or in equity.

8. **Term and Termination.** The term of this agreement shall begin on the date it is countersigned by LSI and continue until the Project is completed, unless terminated in accordance within this section of the agreement. Either party may terminate this agreement if the other party materially breaches this agreement and fails to cure the breach within 15 days after receiving written notice of the breach. The provisions of this agreement concerning proprietary rights and licenses, confidentiality, limitation of liability, duties upon termination and interpretation of the agreement shall remain in effect after the expiration or termination of the agreement.
9. **Miscellaneous.** This letter agreement constitutes the entire agreement between the parties concerning the subject matter of this letter agreement and supersedes all prior agreements between the parties concerning such subject matter. This letter agreement may be modified or amended only by written agreement of the parties. This letter agreement shall be governed by the laws of the State of Maryland. The rights and remedies provided in this letter agreement and all other rights and remedies available to either party are, to the extent permitted by law, cumulative and not exclusive of any other right or remedy. Neither asserting a right nor employing a remedy shall preclude the concurrent assertion of any other right or employment of any other remedy, nor shall the failure to assert any right or remedy constitute a waiver of that right or remedy. LSI shall not assign any of its rights under this letter agreement without the written consent of AOT, which shall not be withheld unreasonably.

Mr. Jim Sferra  
December 12, 2000  
Page 5

If you agree that this letter accurately reflects our understanding, please countersign a copy of the letter in the space provided below and return it to me.

Sincerely,

**ADVANCED OPTICAL  
TECHNOLOGIES, L.L.C.**

By: \_\_\_\_\_

Jack C. Rains, Jr.  
President

Agreed:

**LSI INDUSTRIES**

By: \_\_\_\_\_  
Mr. James Sferra  
Director of Manufacturing

Date: \_\_\_\_\_

LICENSE AGREEMENT  
BETWEEN  
ADVANCED OPTICAL TECHNOLOGIES, L.L.C.  
AND  
LSI INDUSTRIES INC.

This License Agreement ("Agreement") is made as of December 12, 2000 (the "Effective Date") between Advanced Optical Technologies, L.L.C. ("AOT"), a Delaware limited liability company with its principal place of business at 8301 Greensboro Drive, Suite 110, McLean, Virginia 22102, and LSI Industries Inc. ("LSI"), an Ohio corporation with its principal place of business at 10000 Alliance Road, Cincinnati, OH 45242.

WHEREAS, AOT has developed or otherwise obtained rights with respect to various proprietary optical technologies; and

WHEREAS, LSI wishes to obtain a license under AOT's Proprietary Rights to make, use and sell low profile linear fluorescent (LPLF) fixtures utilizing fluorescent light sources for commercial and industrial light applications; and

WHEREAS, AOT is willing to grant such license in accordance with the terms and conditions hereof;

NOW, THEREFORE, for and in consideration of the foregoing, of the mutual covenants and undertakings contained herein and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties, intending to be legally bound, hereby agree as follows:

1. Definitions

1.1 "AOT Improvements" means any improvements made by LSI to AOT's proprietary optical technologies, including the patent, trade secret and other proprietary rights associated therewith.

1.2 "AOT's Proprietary Rights" means the patent, trade secret and other proprietary rights associated with the concept of Constructive Occlusion owned by AOT at any time during the term of this Agreement that cover the manufacture, use, or sale of Units.

1.3 "Commercialization Date" means the earlier of (i) the first date that Units are offered for sale by LSI, or (ii) December 31, 2001.



1.4 "Constructive Occlusion" means the use of certain optical components, including a mask and a cavity, in apparatus for projecting electromagnetic radiation with a tailored intensity distribution.

1.5 "Gross Receipts" with respect to Units means the total of the gross amount billed or invoiced on the first sale or other disposition of the Units by LSI or its sublicensees to third parties, where the "gross amount billed or invoiced" for calculating such Gross Receipts means: (i) if the Units are sold to a third party other than a Special Party, LSI's actual billing or invoice amount for such Units; (ii) if the Units are sold to a Special Party for subsequent resale by or for such Special Party, the greater of LSI's actual billing or invoice amount or the Special Party's invoice amount for such Units; or (iii) if the Units are sold to a Special Party for use by such Special Party, the billing or invoice amount that would have resulted from a hypothetical arm's-length sale by LSI to a third party if such third party were not a Special Party.

1.6 "Design Proprietary Rights" means the patent, trade secret and other proprietary rights in the Licensed Low Profile Linear Fluorescent Design specifically.

1.7 "Licensed Low Profile Linear Fluorescent Design" means AOT's proprietary design for an LPLF fixture described in Appendix A.

1.8 "Special Party" means an affiliate of LSI or any other entity enjoying a special course of dealing with LSI or any of its affiliates, where such a "special course of dealing" includes co-marketing or other arrangements between a third party and LSI or one of its affiliates wherein such third party sells Units and LSI or its affiliate receives additional compensation based on the ultimate sale of Units, arrangements under which a third party sells Units under a private labeling arrangement with LSI or its affiliate, or barter arrangements in which LSI or its affiliate exchanges Units with a third party for another product or other products in-kind.

1.9 "Unit" means one LPLF fixture utilizing LED's or fluorescent light source(s) and conforming to the Licensed Low Profile Linear Fluorescent Design.

## 2. Intellectual Property.

2.1 Subject to the terms and conditions hereof, AOT hereby grants to LSI, and LSI hereby accepts: (i) a worldwide, exclusive license under the Design Proprietary Rights to make, use and sell Units, and (ii) a worldwide, nonexclusive license under other AOT's Proprietary Rights to make, use and sell Units.

2.2 LSI shall have the right to grant sublicenses hereunder provided that (i) each sublicense shall be in writing and require the sublicensee to be bound by all the applicable terms of this Agreement, including the obligations set forth in Article 8 (Confidentiality) and Article 9 (Term and Termination); (ii) LSI shall promptly notify AOT in writing of the granting, amendment, expiration or termination of any sublicense hereunder; (iii) within 30 days after

execution of any sublicense granted by LSI or any amendment to any such sublicense, LSI shall provide AOT with a true and accurate copy of such sublicense or amendment (including an English translation thereof in addition to such copy if executed in another language); (iv) any Units sold or otherwise disposed of by a sublicensee of LSI shall be treated as Units sold or otherwise disposed of by LSI for all purposes of the Agreement, and LSI shall pay royalties on such sales or other dispositions in accordance with Article 3; and (v) any sublicense hereunder shall terminate without any notice or action on the part of AOT immediately upon the expiration or termination of the Agreement.

2.3 LSI acknowledges that the foregoing license does not extend to the manufacture, use or sale of any products other than Units.

2.4 AOT grants LSI no rights with respect to AOT's Proprietary Rights other than the limited license set forth in Section 2.1, and LSI shall take no action inconsistent with AOT's Proprietary Rights other than as expressly permitted hereunder. LSI hereby grants AOT a perpetual, nonexclusive, sublicensable license to use and disclose for any purpose any AOT Improvements and to make, use, import, offer for sale and sell products embodying AOT Improvements. Should AOT exercise this License, AOT shall pay LSI a royalty rate of 25% of any sublicensing royalties, or 5% of any other revenue that AOT receives from exploiting such AOT Improvements. Any and all royalty payments from AOT to LSI on AOT Improvements shall be governed by the same terms as those governing the royalty payments from LSI to AOT under this Agreement, as contained in Sections 3.2, 3.3, 3.4 and 3.6 herein. LSI shall have the right to terminate the license granted herein if AOT materially breaches any of its obligations under this Agreement, including by failing to make any payment as and when required by this Section, and AOT fails to remedy the breach within 30 days after receiving notice of the breach from LSI.

2.5 AOT shall not make, use, or sell Units and shall not affirmatively authorize or assist third parties to do so.

2.6 LSI shall be entitled to use, at LSI's discretion, the trademark CONSTRUCTIVE OCCLUSION (the "Mark") in connection with its sale of Units, including by using the Mark prominently in LSI's advertising materials, product packaging and instruction sheets or other package inserts, and by marking all Units with the Mark in a manner prominent to a person installing such Units (although not necessarily visible when the Units are installed). Subject to the terms and conditions hereof, AOT hereby grants to LSI, and LSI hereby accepts, a nonexclusive, worldwide, royalty-free license during the term of this Agreement to use the Mark to the extent required to perform the obligation set forth in the immediately preceding sentence. LSI may sublicense third parties to use the Mark only in connection with a sublicense permitted under Section 2.2, and only if such sublicensee agrees to be bound by all applicable obligations of LSI in this Section 2.6. LSI acknowledges that AOT owns all right, title and interest in and to the Mark, and agrees that all use of the Mark by LSI shall inure to the benefit of AOT. LSI shall do nothing inconsistent with AOT's ownership of the Mark, including applying to register the

Mark or any variation thereof with any tribunal or other entity worldwide. Nothing in this Agreement shall give LSI any right, title or interest in the Mark other than the right to use the Mark in accordance with this Agreement. LSI shall use an appropriate notice of trademark rights in conjunction with the Mark in accordance with instructions provided by AOT. LSI shall cooperate in AOT's efforts to defend and protect the Mark and to maintain the Mark as a valid mark. All Units shall conform to reasonable standards of quality no less than those that LSI applies to its existing products as of the Effective Date, with which AOT is familiar. LSI shall inform AOT of such standards for Units on request, and LSI shall cooperate with AOT in permitting reasonable inspection of LSI's operations, and in supplying AOT with specimens of any planned use of the Mark by LSI for prior approval by AOT. Such approval shall be deemed automatically granted if AOT does not convey its disapproval to LSI in writing within 10 days after AOT's receipt of such specimens.

3. Payments.

3.1 LSI shall pay AOT an up-front payment of twenty thousand United States dollars (\$20,000) upon signing this Agreement. In addition, LSI shall pay a running royalty of 5% of Gross Receipts for each Unit sold or otherwise distributed by or for LSI and its sublicensees. Notwithstanding the foregoing, the Parties agree that LSI shall not be responsible for any royalty payments under this Section for Units that are "otherwise disposed of" by means of warranty replacements, inventory overstock, as damaged Units, Units disposed of as scrap, and/or Units not otherwise "sold" or "distributed" by LSI, any Special Parties, or any of LSI's sublicensees sublicensed pursuant to this Agreement.

3.2 LSI shall pay such royalty on a calendar quarter basis. On or before the last day of each February, May, August and November for so long as royalties are payable under this Agreement, LSI shall pay the applicable royalty for each Unit sold during the preceding calendar quarter. With each such payment, LSI shall render to AOT a report in writing, setting forth by model the number of Units sold or otherwise distributed during the calendar quarter and the applicable royalty.

3.3 LSI also shall pay any sales, use, or excise taxes assessed as a result of payments made under this Agreement, but not taxes based on AOT's net income. All royalties payable under this Agreement shall be net of any applicable withholding taxes.

3.4 If LSI fails to make any payment required under this Agreement when due, LSI shall pay interest on such amount at the rate of one percent per month, which interest shall accrue from the date the payment is due until the date such payment is made in full.

3.5 If, for any quarterly period commencing on the Commercialization Date, LSI does not pay royalties of five thousand United States dollars (\$5,000) under Section 3.1, or pay an additional royalty equal to the difference between five thousand United States dollars (\$5,000) and the royalty paid under Section 3.1 within thirty (30) days after receiving notice of such

deficiency, AOT shall have the right to terminate this Agreement.

3.6 LSI shall keep complete and accurate records and books of account containing all particulars and reasonable supporting documentation concerning all Units made and sold or otherwise distributed by or for LSI under this Agreement and the calculation of amounts payable under this Agreement. LSI shall retain such records and books for at least three (3) years after LSI pays AOT the applicable royalties. During such three (3) year period, within a reasonable time after receipt of notice from AOT, LSI shall allow a certified public accountant selected and paid for by AOT, and acceptable to LSI, during business hours, on reasonable notice, no more often than annually, to examine any such records and books. If such records are insufficient for the foregoing purposes or any such inspection discloses an underpayment of royalties of five percent (5%) or more of the amount of royalties actually due for any quarterly period, then, in addition to any other rights and remedies available to AOT under this Agreement, including termination, LSI shall promptly pay the reasonable cost of such inspection after AOT's receipt of the bill or invoice for such inspection.

4. Commercialization.

4.1 LSI shall use its best efforts to (i) commence by December 31, 2001, and thereafter continue, an active and ongoing program of development of commercial Units and (ii) sell or otherwise distribute its first Unit by no later than December 31, 2001 and (iii) thereafter continue to maintain Units as an active product in its product line and actively market Units. If LSI fails to achieve any of the foregoing milestones, even if LSI has used its best efforts to do so, AOT shall have the right to terminate this Agreement, including the license granted in Section 2.1, by written notice to LSI.

5. Representations and Warranties.

5.1 Each party represents and warrants to the other party that it has the right, power and authority to enter into and to perform its obligations under this Agreement.

5.2 AOT warrants that it is the owner of, or otherwise has the right to license, the intellectual property being licensed hereunder, including the designs, technology, copyright, patent, trade secret, trademark (in the U.S.), and any and all other rights licensed by AOT to LSI pursuant to this Agreement.

6. Patent Matters.

6.1 LSI shall have the sole right and discretion to file and prosecute patent applications that cover any patent, trade secret or other proprietary rights owned by LSI, including AOT Improvements. AOT shall have the sole right and discretion to file and prosecute patent applications based upon AOT's Proprietary Rights.

6.2 LSI shall act in good faith to inform AOT of possible infringement of AOT's Proprietary Rights of which LSI becomes aware. AOT shall act in good faith to inform LSI of possible infringement of AOT's Proprietary Rights of which AOT becomes aware.

6.3 AOT shall act in good faith to inform LSI of possible infringement of any proprietary rights in AOT Improvements ("Improvements Proprietary Rights") of which AOT becomes aware. LSI shall act in good faith to inform AOT of possible infringement of Improvements Proprietary Rights of which LSI becomes aware.

7. Indemnity.

7.1 LSI shall defend, indemnify and hold harmless AOT and its directors, officers, agents, employees and members from and against all claims, liabilities, suits, losses, damages and expenses, including costs and reasonable attorney's fees, ("Claims") relating to or resulting from: (i) the manufacture, use, sale, distribution or export of Units or other products of LSI (including Claims for personal injury, death, or property damage), or (ii) LSI's failure to pay or remit any taxes, duties, levies or charges. This indemnity shall be inapplicable if LSI is not notified promptly of the Claim and is prejudiced by the delay in notice. The indemnified parties shall have the right to exercise reasonable control over any litigation within the scope of this indemnity insofar as it concerns claims against them; that control shall include the right to select and retain counsel to represent them at the indemnified parties' expense. All indemnified parties shall cooperate to the extent necessary in the defense of any action under this Section 7.1. No Claim shall be settled by LSI without the written consent of the indemnified parties, which consent shall not be unreasonably withheld or delayed.

7.2 AOT shall defend, indemnify, and hold harmless LSI, its affiliates, and their respective directors, officers, agents, employees, and members from and against all Claims relating to or resulting from challenges or disputes over AOT's ownership of the intellectual property, including the designs, technology, copyright, patent, trade secret, trademark (in the U.S.), and any and all other rights, being licensed by AOT to LSI pursuant to this Agreement and as warranted in Section 5.2 herein. The indemnified parties shall have the right to exercise reasonable control over any litigation within the scope of this indemnity insofar as it concerns any claims against them; that control shall include the right to select and retain counsel to represent them at the indemnified parties' expense. All indemnified parties shall cooperate to the extent necessary in the defense of any action under this Section 7.2. No claim shall be settled by AOT without the written consent of the indemnified parties, which consent shall not be unreasonably withheld or delayed.

8. Confidentiality.

8.1 For the purpose of this Article 8, the term "Confidential Information" means any material or information relating to a party's (the "Disclosing Party's") research, development, trade secrets and business operations and affairs that the Disclosing Party treats as confidential,

but not any material or information that the other party (the "Receiving Party") can show (i) is or becomes publicly known through no fault of the Receiving Party; (ii) is developed independently by the Receiving Party; (iii) is known by the Receiving Party when disclosed by the Disclosing Party if the Receiving Party does not then have a duty to maintain its confidentiality; or (iv) is rightfully obtained by the Receiving Party from a third party not obligated to preserve its confidentiality.

8.2 A Receiving Party shall not use the Disclosing Party's Confidential Information for any purpose other than in accordance with this Agreement and shall not disclose Confidential Information to any person other than its employees and its independent contractors subject to a nondisclosure obligation comparable in scope to this Article 8, which employees and independent contractors have a need to know such Confidential Information.

8.3 Notwithstanding Section 8.2, a Receiving Party may disclose Confidential Information to the extent required by a court or other governmental authority, provided that (i) the Receiving Party gives the Disclosing Party reasonable notice of the disclosure, (ii) the Receiving Party uses reasonable efforts to resist disclosing the Confidential Information, and (iii) the Receiving party cooperates with the Disclosing Party on request to obtain a protective order or otherwise limit the disclosure.

8.4 The parties acknowledge that either party's breach of Section 8.2 would cause the other party irreparable injury for which it would not have an adequate remedy at law. In the event of a breach, the nonbreaching party shall be entitled to injunctive relief in addition to any other remedies it may have at law or in equity.

## 9. Term and Termination.

9.1 This Agreement shall remain in effect for a period of seven (7) years from the Commercialization Date, unless terminated earlier in accordance with the provisions of this Article 9 or Sections 3.5 or 4.1.

9.2 AOT shall have the right to terminate this Agreement, including the license granted in Section 2.1, if LSI materially breaches any of its obligations under this Agreement, including by failing to make any payment as and when required by this Agreement, and LSI fails to remedy the breach within 30 days after receiving notice of the breach from AOT.

9.3 LSI shall have the right to terminate this Agreement, including the license granted in Section 2.1, but excluding the license granted in Section 2.4, upon 30 days written notice. If LSI does so, it shall make all required payments per this Agreement through the Termination Date and submit all required reports in accordance with Article 3. Notwithstanding the foregoing, upon termination, LSI shall no longer be required to make the quarterly \$5,000 minimum royalty payment for any quarter not completed by the termination date.

9.4 Upon any termination of this Agreement, LSI shall have 90 days to complete the manufacture of Units that then are work in progress. Additionally, LSI may sell its inventory of Units and fulfill existing orders for Units, provided that LSI makes all required payments and submits all required reports in accordance with Article 3 until such time as all Units are sold or otherwise distributed.

9.5 Termination of this Agreement for any or no reason shall not relieve LSI of liability for payment of any royalty due for Units made, used or sold prior to and after the effective date of such termination.

9.6 If LSI is unable to manufacture, use or sell Units due to any acts, errors, or omissions by AOT, or if LSI ceases to manufacture, use or sell Units due to litigation commenced in a court of competent jurisdiction challenging AOT's rights with respect to AOT's Proprietary Rights, including Design Proprietary Rights, then LSI shall be relieved of its obligation to meet the quarterly minimum royalty payments of \$5,000 during the time such condition continues, and LSI shall have the right to terminate this Agreement, but not the license granted in Section 2.4, immediately. In the event that LSI ceases to manufacture, use or sell Units due to litigation as set forth in this Section 9.6, then AOT shall have the right to terminate this Agreement, but not the license granted in Section 2.4, pursuant to Section 4.1.

9.7 The provisions of Articles 3 (Payments), 7 (Indemnity), 8 (Confidentiality), 10 (Notices) and 11 (Miscellaneous) and Sections 2.4, 9.4 and 9.5 shall remain in effect after the termination or expiration of this Agreement.

#### 10. Notices.

10.1 All notices sent under this Agreement shall be in writing and (i) hand delivered; (ii) transmitted by legible telecopy, with a copy sent concurrently by certified mail, return receipt requested; or (iii) delivered by prepaid overnight courier. Such notices shall be deemed effective when received.

10.2 Notices shall be sent to the parties at the addresses set forth in the preamble hereof; to the attention of Mr. Jack Rains if to AOT, and to the attention of Mr. Jim Sferra if to LSI, or to such other individuals or addresses as a party may specify by proper notice.

#### 11. Miscellaneous.

11.1 EACH PARTY SHALL IN ANY EVENT BE LIABLE FOR THE ACTUAL AND DIRECT DAMAGES ARISING FROM ITS BREACH OF THIS AGREEMENT. HOWEVER, EXCEPT FOR A CLAIM OF INDEMNIFICATION PURSUANT TO ARTICLE 7, NEITHER PARTY SHALL BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY OR CONSEQUENTIAL DAMAGES, REGARDLESS OF WHETHER SUCH PARTY WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NEITHER

PARTY SHALL BE LIABLE FOR ANY OTHER DAMAGES IN EXCESS OF THE AMOUNTS PAYABLE BY LSI TO AOT UNDER THIS AGREEMENT.

11.2 Neither party may, without prior written consent of the other party, use the name or any trademark of the other party in any advertising or publicity material, or make any form of representation or statement which would constitute an express or implied endorsement by the other party of any product, except for the trademark license to the CONSTRUCTIVE OCCLUSION trademark as contemplated herein.

11.3 Nothing in this Agreement shall be construed as creating a partnership, joint venture or agency relationship between the parties, or as authorizing either party to act as agent for the other.

11.4 This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia, without regard to its conflict of laws principles.

11.5 The provisions of this Agreement are severable, and the unenforceability of any provision of this Agreement shall not affect the enforceability of the remainder of this Agreement. The parties acknowledge that it is their intention that if any provision of this Agreement is determined by a court to be unenforceable as drafted, that provision should be construed in a manner designed to effectuate the purpose of that provision to the greatest extent possible under applicable law.

11.6 The rights and remedies provided in this Agreement and all other rights and remedies available to either party at law or in equity are, to the extent permitted by law, cumulative and not exclusive of any other right or remedy now or hereafter available at law or in equity. Neither asserting a right nor employing a remedy shall preclude the concurrent assertion of any other right or employment of any other remedy, nor shall the failure to assert any right or remedy constitutes a waiver of that right or remedy.

11.7 LSI shall not assign any of its rights or obligations under this Agreement to any third party without the prior written consent of AOT, which shall not be withheld unreasonably.

11.8 Neither party shall be liable for a delay in performing or failure to perform, in whole or in part, the terms of this Agreement due to strike, labor disputes, act of war, civil commotion, act of public enemy, fire, flood, or act of God or other causes beyond the reasonable control of such party, provided, however, that such party makes a diligent effort to overcome such obstacle and that the delay is no longer than that caused by the force majeure condition. In the event such condition prevents a party from fulfilling its obligations under this Agreement for a period of three months or greater, the other party shall have the right to terminate this Agreement.

11.9 This Agreement shall be binding upon and inure to the benefit of the parties, their



successors, permitted assigns and legal representatives.

11.10 All headings in this Agreement are included solely for convenient reference and shall not affect the meaning or interpretation of this Agreement.

11.11 This Agreement may be executed in counterparts, each of which shall be deemed to be original but all of which together shall constitute a single instrument.

11.12 The failure of either party to insist upon or enforce strict performance by the other party of any provision of this Agreement or to exercise any right under this Agreement will not be construed as a waiver or relinquishment to any extent of such party's right to assert or rely upon any such provision or right in that or any other instance; rather, the same will be and remain in full force and effect. No waiver of or amendment to any of the terms hereof subsequent to the execution hereof claimed to have been made by any representative of either party shall have any force or effect unless in a writing signed by duly authorized representatives of the parties.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their respective duly authorized officers:

ADVANCED OPTICAL  
TECHNOLOGIES, L.L.C.

LSI INDUSTRIES INC.

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_